

1. The following points regarding leaks were considered noteworthy by the Chairman of the Security Committee.

2. Legislation to criminalize unauthorized disclosures of classified information by cleared persons is essential. Prosecution under the espionage laws for leaking has not worked well. To be successful, efforts to obtain the legislation needs the broadest possible support. One strategy for getting such support would be to try to have the SSCI leadership, both the Chairman and Vice Chairman, sponsor the bill. A similar effort with the HPSCI should also be considered. Support of the Secretary of Defense and the Attorney General would be essential within the Executive Branch. To temper the inevitable media criticism, the bill should be portrayed as one to require government officials to live up to their obligations to protect the national security, not to interfere in any way with freedom of the press.

3. A leak analysis center should be set up within the IC Staff under the Security Committee, to receive and analyze data on all intelligence leaks throughout the Community. The Unauthorized Disclosures Investigations Subcommittee should serve as the mechanism for policy coordination. The SECOM Staff would perform day-to-day data gathering, analysis and coordination. Participation by the FBI would be indispensable and the assignment of an FBI officer to the SECOM Staff should be strongly considered. Close cooperation and input from CIA, NSA, DoD, State and Justice would be required. This effort should be devoted exclusively to leaks of classified intelligence under the DCI's statutory responsibility to protect intelligence sources and methods.

4. Strong commitment by departments and agencies to the leak analytical effort is a fundamental need. Leak analysis will succeed only with prompt and full input from throughout the Intelligence Community. In addition to information on unauthorized disclosures as they are committed, data on investigative progress and the status of possible prosecutions are basic requirements.

5. Coordinated investigations of unauthorized disclosures are needed to supplement the existing procedure of independent internal investigations of leaks, which has been unproductive. Reporting of all current intelligence leaks to SECOM would provide the basis for review and analysis and permit referral of leads to appropriate agencies and the selection of specific, particularly aggravated leaks for early attention by the FBI.

6. At the SIG-I meeting on 27 April, Judge Webster indicated he had no objection to investigating leaks, provided he did not use scarce investigative resources in a pro forma effort that is preordained to fail. His observation that leaks seem to turn into authorized statements as the FBI comes closer to identifying a suspect is a clear indication of the need for top level support and determination to act. Also needed are investigative guidelines that will permit more aggressive action in leak cases.

7. Judge Webster also observed that the suggestion of polygraph examinations for possible leak suspects often brings the investigation to a halt. We need to sell the polygraph as an investigation tool. The favorable response of the SSCI to the 21 March presentation by NSA and CIA on polygraph shows that the technique can be explained in a way that generates support. The SECOM report on the utility of the polygraph has been favorably

received. We need to do more to promote acceptance of the polygraph technique by educating influential people, as was done with the SSCI. Since only the leaker and the leakee know the identity of the leaker in most cases, any effort to combat leaks without use of the polygraph would be severely handicapped.

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TALKING POINTS ON LEAKS FOR PFIAB

Unauthorized disclosures of classified intelligence information damage the national security of the United States. Publication of such information in the news media can result in the loss or nullification of invaluable, sometimes irreplaceable, intelligence sources and methods; disruption of the cooperation of intelligence services of foreign countries; the undermining of American foreign relations and defense policy throughout the world; jeopardy to the lives of human intelligence assets; and tremendous cost to the U.S. taxpayer to remedy the damage.

- Unauthorized disclosures of intelligence are increasing in frequency.
- Unauthorized disclosures of intelligence are occurring more quickly-- the time from preparation of intelligence reports to their publication in the media is decreasing.
- Leakers of classified intelligence to the media have it easier, rather than harder, as a result of the collapse of NSDD-84.
- The restrictions on polygraph use as a result of congressional action on NSDD-84 are especially significant. Leaking usually is a consensual crime, known only to the leaker and the unauthorized recipient of the classified information. Without using polygraph, it may be impossible to identify the perpetrator of the media leak.
- Leaking has become virtually risk-free.
- Leakers view themselves as performing a valuable public service. They obviously don't consider the long-range consequences of their acts.

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- Those who receive sensitive intelligence reports are briefed on the need for security and the grave consequences to the national security of unauthorized disclosures. Nevertheless, for reasons they find overriding, they leak classified information to the media.

- Our problem is not with the press, which is pursuing its legitimate objective (although sometimes in a less than ethical manner). Our problem is with the government official who pledges in writing to uphold the secrecy of this information, and then dishonors that pledge.

- What can we do about it? Before we can hope to bring the leak problem under control, we must insert a credible element of risk into the act of leaking.

- We need legislation to criminalize unauthorized disclosures of classified foreign intelligence by those cleared to receive it. Prosecution under the espionage laws, while theoretically possible in leak cases, has never been tried, because Justice doesn't think it would be successful. CIA has formulated a bill to penalize government officials who do not live up to their security obligations and which does not interfere in any way with freedom of the press. Obtaining passage of such a bill will require broad, bipartisan support. We will seek the assistance of the intelligence oversight committees in both houses of Congress.

- We need stronger, better coordinated investigative efforts on leaks. The establishment of a special FBI unit to investigate unauthorized disclosures and a special Intelligence Community Staff analysis center for leaks of classified foreign intelligence are being proposed as first steps in upgrading our efforts to detect unauthorized leaking.

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- Strong top-level backing is desperately needed for efforts to stop unauthorized disclosures of classified foreign intelligence. This is especially so when facing the likelihood that at least some leakers are senior officials of the government.

- Leaking is done by individuals who have the means, the opportunity and the motive. Generally speaking, only those at top levels of government have access to highly sensitive intelligence, acquaintance with media representatives and a political position to promote.

- It is difficult to discipline, prosecute, or fire an official who may be a personal friend, a political ally, or a source of support from others. But until some examples are made, leakers will continue their activities, secure in the knowledge that they are safe from justly deserved punishment.

- We need clear cut, unmistakable rules about who can release classified information to the media and under what circumstances. We also need rules requiring that there be a competent effort to sanitize such information before it is released.

- As mentioned earlier, the polygraph is an indispensable tool in leak investigations. It works, and when employed with the proper safeguards, threatens only the guilty. We need support for the use of the polygraph. I would be happy to arrange for a briefing on how we use the polygraph in the Intelligence Community, because I believe we can relieve any doubts you may have about the technique.

- We need to get the support of the American people for our efforts to stop these damaging disclosures. Because the explanation of damage invariably involves the disclosure or confirmation of sensitive data, we can't go

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directly to the public with our message. We may propose creation of a Presidential Commission, a blue ribbon panel to study the problem and report to the President and the people on the scope and nature of the leak problem and the damage it causes.

- Finally, we need from the President a forceful commitment to take corrective action at any level of government and without regard to who the leaker may be or what position he may hold. In the past, leak investigations have been discontinued abruptly and unauthorized disclosures have been determined, belatedly, to be authorized statements, when investigators seemed on the verge of solving leak cases. The determination to follow through on efforts to identify those who betray their obligations is essential if we are to have a viable security program.

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